

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**ANGEL DAVID MORALES
VALLELLANES,
Plaintiff,**

v.

**JOHN POTTER, UNITED STATES
POSTMASTER GENERAL, ET ALS.,
Defendants.**

CIVIL NO. 97-2459 (GAG)

**DAMAGES BASED ON
RETALIATION AND
DISCRIMINATION; PROHIBITED
PERSONNEL PRACTICES;
UNFAIR LABOR PRACTICES;
BREACH OF COLLECTIVE
BARGAINING AGREEMENT**

**TRIAL BY JURY IS HEREBY
REQUESTED**

**MOTION TO DISMISS AND/OR STRIKE FROM THE RECORD
FOR UNTIMELY DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

COMES NOW, plaintiff Angel David Morales-Vallellanes through his legal counsel and very respectfully inform this Honorable Court:

1. On February 14, 2005 this Honorable Court held a status conference in which the following deadlines were set:
 - i) March 8, 2005 – Final extension for Plaintiff to provide to defendant all outstanding answers to interrogatories and certified translations.
 - ii) May 1, 2005 - Plaintiff's discovery cut-off date.
 - iii) June 15, 2005 - Final date for Defendant to file dispositive motion. (See Minutes of Proceedings and Order dated February 14, 2005, docket number 221 and 222.)
2. Defendant was given a ninety-nine (99) days term to file his dispositive motion given the fact that Plaintiff would comply to provide "all outstanding answers to interrogatories and certified translations."
3. On April 15, 2005 this Honorable Court granted Defendant's Motion to Compel and ordered Plaintiff to answer and produce certain interrogatories and documents. In the same order the Honorable Court also says "...extended by an additional ten (10) days period to commence

once plaintiff complies with this order”. (See docket number 230)

4. On May 17, 2005 Plaintiff complied with the Court’s order as said party provided with the requested answer to interrogatories and the production of documents. (See motion in docket number 240)
5. The June 15, 2005 deadline for defendant to file a dispositive motion was extended only by ten (10) days according to the April 15, 2005 order (docket #230) which means that the deadline was set on June 25, 2005. Moreover, even in the best interest of defendant if the ninety-nine (99) day term begun on May 17, 2005 (the date Plaintiff finally complied with the April 1, 2005 order) said term ended on August 24, 2005.
6. Defendant filed its summary judgment as a dispositive motion last Friday September 16, 2005 and did not request previously for an extended term for said filing. Therefore, defendant’s motion for summary judgment should be dismissed and/or stricken from the record for the tardiness in its filing.

WHEREFORE, it is respectfully requested from this Honorable Court to strike from the record defendant’s motion for summary judgment.

RESPECTFULLY SUBMITTED.

I HEREBY CERTIFY that on September 19th, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: **Fidel A. Sevillano-Del Río, Esq.**, Assistant U.S. Attorney, Federico Degetau Federal Build., 150 Carlos Chardón Av., Hato Rey, Puerto Rico 00918.

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